

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MCKESSON GENERAL MEDICAL
CORPORATION,

Plaintiff,

V.

BECTON DICKINSON & COMPANY,

Defendant.

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CIVIL ACTION NO. H-05-0137

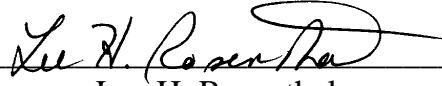
ORDER

This case has been stayed pending the resolution of appeals raising the issues. An opinion apparently issued in March 2006 in the state-court appeal conclude that a manufacturer's limited offers to defend only its products did not fulfill statutory indemnity duties under Texas Civil Practice and Remedies Code section 82.002. The Fifth Circuit issued an opinion on April 19, 2006 noting the state appellate court decision and certifying to the Texas Supreme Court the following question: "When a distributor sued in a products liability action seeks indemnification from less than all of the manufacturers implicated in the case, does a manufacturer fulfill its obligation under Texas Civil Practice and Remedies section 82.002 by offering indemnification and defense for only the portion of the distributors defense concerning the sale or alleged sale of that specific manufacturers product, or must the manufacturer indemnify and defend the distributor against all claims and then seek contribution from the remaining manufacturers?"

The parties are to advise this court, in writing, by **May 12, 2006**, what effect these developments have on this case. If the parties agree that this case should continue to be

stayed pending the Texas Supreme Court's resolution of the certified question, this court will administratively close this case and reinstate it once the Texas Court issues its opinion.

SIGNED on April 27, 2006, at Houston, Texas.



Lee H. Rosenthal
United States District Judge